

## REMARKS

This amendment is being resubmitted in response to the August 18, 2006 Notice of Non-Compliant Amendment. The claims have been amended to more accurately indicate the status of the claims, where the claims have been amended to indicate that claims 1-20 were canceled.

Claims 21, 22, 25, 26, 28-33, 35 and 37-41 are now pending, with claims 21, 33 and 38 being the independent claims. No new matter has been added. Reconsideration of the application is respectfully requested.

In the May 12, 2006 Office Action, independent claims 21, 33 and 38, and dependent claims 22, 25, 26, 28, 29, 31, 33 and 39-41 were rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 5,822,314 (“*Chater-Lea*”). Dependent claims 30 and 37 were rejected under 35 U.S.C. §103(a) as unpatentable over *Chater-Lea* in view of U.S. Patent No. 5,987,513 (“*Prithviraj*”). Dependent claim 32 was rejected under 35 U.S.C. §103(a) as unpatentable over *Chater-Lea* in view of U.S. Patent No. 6,507,741 (“*Bassirar*”). For the following reasons, it is respectfully submitted that all claims of the present application are patentable over the cited reference.

The Office Action (pg. 6, ¶ 6) states:

Chater-Lea discloses a method for detecting network elements relaying communications between a base station and a mobile station in a mobile network ... comprising:

...

determining whether a communication was relayed via at least one of the network elements by detecting an increased time delay as compared to a known time delay of mobile stations communicating directly with the base stations (*Chater-Lea*; Col. 2, lines 15-20)....

With respect to the foregoing, Applicant respectfully asserts that *Chater-Lea* fails to teach the method recited in independent claim 21. *Chater-Lea* discloses a solution for obtaining timing pursuant to synchronization between two communication units, i.e., a base station and a mobile station (see col. 1, lines 5-7). That is, *Chater-Lea* is directed to obtaining the necessary synchronization upon the start-up of a communication link between a mobile station and a base station so as to enable an encryption process to be started.

*Chater-Lea* (col. 2, lines 15-20) states, “the timing offset is indicative of the combined timing delay for transmissions from the first communications unit via the relay device to the

second communications unit and from the second communications unit via the relay device to the first communications unit”.

*Chater-Lea*, however, fails to teach the determining step recited in independent method claim 1. *Chater-Lea* (col. 2, lines 15-20) states, “the first communications unit receives the second timing signal, calculates a timing offset between the timing of the received second timing signal and the timing information contained within the received second timing signal”.

Applicant respectfully asserts that it is not possible to deduce from timing advance comparisons whether one or more relaying elements are used between a mobile and a base station. Rather, what *Chater-Lea* does teach is that a frame number comparison is used to define a timing offset to compensate for variations in a transmission. There is nothing with respect to determining whether a communication was relayed through a particular network element. *Chater-Lea* is directed to the synchronizing the base station with the mobile station. In fact, *Chater-Lea* fails to provide the the slightest hint, motivation or suggestion that the presence of relaying elements or that relaying elements are even identified. Such a determination requires more than merely detecting the presence of some random element (see dependent claim 22). Naturally, a person having the ordinary level of skill in the art would readily appreciate that relaying elements would add delay, which would naturally affect the offset/synchronization process. However, which relaying element? *Chater-Lea* fails to teach that such a determination is made. Consequently, independent claim 21 is patentable over *Chater-Lea* for at least this reason.

Secondly, a base station does NOT constitute part of a network management system (NMS). The skilled person would readily appreciate such a fact. However, the Examiner (pg. 3 of the Office Action) asserts the mobile station sends an event notice (e.g., a frame number) to the base station. As described at pgs. 3, 6 and 9 of the originally filed specification and Fig. 7(a) and 7(b), it is a base station that actually sends an event notice to the NMS. Regarding independent claim 38, *Chater-Lea* cannot teach the claimed invention, since independent claim 38 is directed to the network element which implements the method of independent claim 21. Therefore, the claimed invention is patentable over *Chater-Lea* for at least this additional reason. In view of the foregoing, reconsideration and withdrawal of the rejection under 35 U.S.C. §102 is requested, and a notice to that effect is solicited.

The Examiner cites *Prithviraj* to cure the deficiency of *Chater-Lea*, i.e., the failure to teach or suggest “monitoring the communication relayed via at least one of the network elements to determine various parameters which provide information with respect to network functionality and the network elements”. *Prithviraj* relates to a system and method for managing network elements using web browsers available in the market place (see col. 1, lines 6-9). *Prithviraj* (col. 2, lines 49-52) states that the “invention is implemented on a central network management station and a user can manage the network from any remote computer system implementing a browser. *Prithviraj* (col. 2, lines 49-52) states “various Applets and Hypertext documents are provided by the present invention which are accessed using the browser”. *Prithviraj* (col. 2, lines 49-52) further states, “by simply clicking on the Applet displays and the hypertext links in the Hypertext documents, the user can manage the network”.

*Prithviraj* (col. 2, lines 61-63) teaches that new network elements can be integrated into the network management system in a simplified manner. *Prithviraj* (col. 4, lines 60-62) also teaches that a user is provided with the ability to view error conditions that may have occurred in network elements during a desired time period. However, *Prithviraj* fails to teach the determining step recited in independent claim 21. Consequently, *Prithviraj* fails to cure the deficiency of the *Chater-Lea* patent.

The Examiner cites *Bassirat* to cure the deficiency of *Chater-Lea*, i.e., the failure to teach or suggest “at least one of said network element is an optical tunneling configuration.” *Bassirat* relates to an RF repeater for use in a cell to improve hard hand-off performance. The RF repeater includes an input/output terminal for receiving a first signal from a subscriber station. A predetermined amount of delay is added to the received first signal and the delayed signal is output for transmission to a base station. The added delay distinguishes the RF repeater signal from the signal received directly from the subscriber station and allows the base station to determine the approximate location of the subscriber station (i.e., within the coverage area of the RF repeater and near the cell boundary for initiation of the hard hand-off process) (see col. 4, line 58 thru col. 5, line 2). However, *Bassirat* fails to teach or suggest the determining step or the sending step of independent claim 21. Consequently, *Bassirat* fails to cure the deficiencies of the combined *Chater-Lea* and *Prithviraj* patents, since *Bassirat* also fails to teach at least the determining step recited in independent method claim 21.

In view of the foregoing, independent claim 21 is patentable over the combination of *Chater-Lea*, *Prithviraj* and/or *Bassirat*. Therefore, reconsideration and withdrawal of all the rejections under 35 U.S.C. §103(a) are in order, and a notice to that effect is respectfully requested.

Independent claims 33 and 38 are system claims associated with the method of independent claim 21. Accordingly, independent claims 33 and 38 are patentable over the combination of the cited references for the reasons discussed above with respect to independent method claim 21.

In view of the patentability of independent claims 21, 33 and 38, for the reasons set forth above, dependent claims 22, 25, 26, 28-32, 35, 37, and 39-41 are all patentable over the prior art.

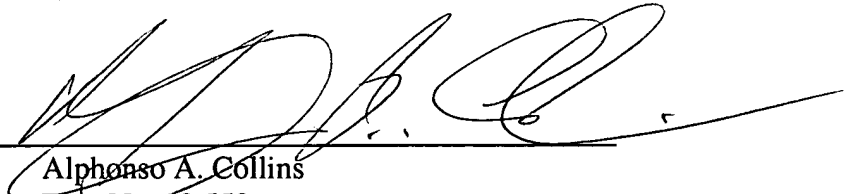
Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

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